

REMARKS OF THE JUDICIAL SYSTEM OF THE STATE OF VIRGINIA.

DURING the last session of the legislature, the public remained for some time in suspense with regard to a proposed change, in our present system of jurisprudence. We are unable to say, whether this subject will occupy any portion of legislative attention; but the inadequacy of the present system, seems to be generally admitted, by all persons who have expressed an opinion on the subject.

The English common law, by the division of America into so many sovereignties, independent in regard to internal regulation, may be considered as the municipal law of many independent states. In consequence of this circumstance, we have the benefit of the experience, not only of the country from whence that law was originally derived, but that which has been furnished by the repeated legislative experiments of many of our sister states. All this experience has proven the inadequacy of county courts to the administration of justice, and all the changes which have ensued, have eventually terminated in the establishment or extension of what may be termed the circuit system.

The history of the English courts in remote periods, is involved in much doubt and obscurity; but I presume that we have information sufficient to satisfy our minds, that there originally existed only two kinds of judicial courts. The first of these was the supreme court of general jurisdiction, held before the king himself or his immediate representatives. The other consisted of a number of subordinate courts, of minute and complicated jurisdiction, which it would be foreign to our present purpose to enumerate or describe. It is sufficient to observe that they resembled our county courts in their most important features, being composed of judges who were local as to their residence and unlearned as to the laws which they were employed to administer.

The people of England, at that period, complained of two grievances which obstructed their pursuit of judicial redress. The one was the remote distance and inaccessible nature of the supreme, or King's court; and the other was the inability and partiality of the provincial ones.

It was to obviate the inconveniences resulting from these last, and to extend to the people, the learning and ability of the one, and the accessibility of the other, that in the reign of H. II. the justices itinerant were instituted. Believe this was the first attempt, to establish a system of jurisprudence, to avoid a resort to antiquated jargon, I shall distinguish by the term of the circuit system. Sir Mathew Hale in making mention of this change in the administration of justice, enumerates the following inconveniences as resulting from the subordinate courts, to which alone, before that period, the people had access.

First, by the ignorance of the judges, which were the freeholders of the county. For although the alderman, or chief constable of every hundred, was always to be a man learned in the laws; and although, not only the freeholders, but the bishops, barons, and great men, were by the laws of king Henry I. appointed to attend the county court, yet they seldom attended there; or if they did, in process of time they neglected to study the English laws, as great men usually do.

Secondly, another inconvenience was, that this also bred GREAT VARIETY of laws, especially in the several counties. For the decisions, or judgments, being made by divers courts, and several independent judges and judicatories, who had no common interest among them in their several judicatories; thereby, in process of time, every several county would have several laws, customs, rules, and forms of proceeding;—which is always the effect of several independent judicatories, administered by third parties.

Thirdly, a third inconvenience was, that all the business of any moment was carried by parties and factions. For the freeholders being generally the judges, and conversing one among another, and being as it were the chief judges, not only of the fact, but of the law; EVERY MAN THAT HAD A SUIT THERE, SPED ACCORDING AS HE COULD MAKE PARTIES. And men of great power and interest in the county did easily overbear others, in their own causes, or in such wherein they were interested; either by relation of kindred, tenure, service, dependence, or application.

Although the state of society in Virginia, both as to morals and intelligence, may be presumed far superior to that of England, in the time of H. II. yet no one will deny that the same objections which have been here stated, are applicable in a great degree to courts, similarly instituted, in any age or country. Making all due allowances for a change in time and circumstances, may we not appeal to the experience and reflection of every person, to bear testimony of the actual existence in this country, of many of the evils, which this great and benevolent judge has so simply stated? Are not the decisions of our different county courts, dissimilar, not only in matters of practice, but in those of fundamental justice? And are they always exempt from, the influence of local party?

We believe that there are but few of the United States, which have not by this time, given a preference to the circuit system, as dispensing justice in a manner the most uniform, expeditious and impartial. They have adopted such a system as secures to the citizen, an equal opportunity of seeking redress in a circuit and in a county court. The consequence has uniformly been that the business of the county courts has dwindled almost to annihilation; an indisputable proof of the preference due to the circuit system.

In adopting the circuit system, the several American states have pursued different methods of rendering it a medium for the dispensation of justice. Some have ex-

tended it to every county, or smallest judicial section of the state; others to a certain number of counties arranged into districts. Some have assigned only one judge to each circuit, others two, or one judge and an associate.

Those legislators who have only partially adopted the circuit system, and have not so organized it, as to render it a complete substitute for the county courts, were probably of opinion, that the district courts would so far diminish the judicial burthens of those of the counties, in the number and difficulty of suits, as to answer every necessary purpose. But experience has proven, that the evils intended to be remedied are not to be removed by so partial an innovation. There is scarcely a large and populous county in the state, whose docket is not incumbered with a load of expensive litigation, presenting a certain refuge of long impunity to the fraudulent & unjust & an impregnable barrier against the claims of the injured. The seat of the district court is generally so remote, as to render that branch of jurisdiction, rather an instrument of persecution in the hands of wealthy and litigious malice, than an asylum for oppressed indigence.

If the legislature, impressed with a due sense of the necessity of reforming the judicial system, should be disposed to engage earnestly in the measure, there is no doubt but that many expedients, for effecting the change might be suggested, without incurring any additional expense. It is the object of the writer, merely to draw the attention of the public to the subject and not to point out particular measures for adoption. He will however take the liberty of giving publicity to the following hints on the occasion.

Under the present arrangement there are ten judges of the general court, to whom are assigned five circuits, two judges to each circuit and all the circuits except one, consisting of four districts.

There are in the state of Virginia ninety-four counties, in which are held one thousand and twenty-eight courts in a year. Let these ninety-four counties be divided into ten circuits, either all consisting of the same number of counties, or apportioned according to their extent and population. Let one judge be assigned to each circuit to hold a court in the spring and fall of every year.

Under such an arrangement, the circuits would all be completed in nine weeks, a shorter space of time than the District courts now occupy. The business of the courts, would be then performed with expedition and ability; the table of the legislature would no longer be loaded with petitions, for the division of counties.

If the present number of judges should be thought inadequate to the above purpose, let three additional judges be added, or the chancery and common law jurisdictions be blended, and the present judges be invested with the powers of common law judges, and the other judges with those of chancellors. It might be easily proven that such an union of powers, would alone contribute materially to the convenience of the people.

WESTERN AFFAIRS.

When the newspapers first began to give such general circulation to the rumors of a conspiracy, to separate the western, from the eastern part of the continent, there were many considerations which induced us to avoid as much as was consistent with a gratification of public curiosity, any mention of the subject. In the first place the rumors might be altogether without foundation; and secondly the reports were too indefinite, as to the designs of the persons to whom such treasonable intentions were attributed.

We did however, in a former Argus, hazard a conjecture, that "if the rumors had any foundation, the object of the conspiracy would prove to be, not so much an attack upon the authority of the United States in conjunction with Spain, as an invasion of the Spanish territories in defiance of that authority."

Many considerations induced us to form this opinion, so contrary to any which had been promulgated. Such a scheme appeared to be more in unison with all those of a violent nature, which had preceded it, to be more practicable in its execution, and more congenial to the wild magnitudes of Mr. Burr's ambition, than any of those which had been ascribed to him.

It can never be supposed, that any one but a maniac, would attempt, so far to alienate the minds of the hardy republicans of the west, as to induce them to renounce the protection of a government, which they only feel by its beneficence, and to seek a dishonorable refuge under the banners of Spanish despotism. But artfully to rouse the resentment of the western people against the aggressions of Spain, to insinuate by insinuation, the backwardness and timidity of the government; to tamper with the military, to allure them by delusive prospects of the plunder of Mexican treasures, and to flatter the fondness for hazardous achievement which is incident to that profession, seem to present to the view of disappointed ambition, a prospect at once more dazzling and less hopeless.

The following extract from the Scioto Gazette of November 13, contains the only information on the subject, which seems to have any claim to authenticity, and it tends, strongly to confirm our suspicion.

IMPORTANT COMMUNICATION.

By a gentleman of the highest respectability from Kentucky, we are furnished with the following intelligence:

The United States' district court for the Kentucky district, having commenced their November session, the following is the substance of an affidavit of Joseph Hamilton Daviess, esq. attorney for the United States for the said district, which was made before the judge of that court, to wit:

"That the said Daviess was in possession of the most satisfactory evidence, that Aaron Burr esquire, late vice-president of the United States, had formed AN ASSOCIATION for making war against Spain, invading Mexico, and forming A DISTINGUISHED EMPIRE in the Western country; that he was raising forces and purchasing up the necessary provisions and stores for that purpose.

"The said Joseph H. Daviess, esq. accordingly moved the court, that the said Aaron Burr, esq. should be arrested and compelled to find security for his appearance, and that a writ should be issued for compelling the attendance of witnesses, and a stop be put to all the further proceedings of Aaron Burr!!!" The judge took time to consider, &c.

It was reported that col. Burr was in Lexington at the time the motion was made, and that he had notice of the transaction three hours after it transpired.

The new arrangements in the British cabinet council, which ensued on the death of Mr. Fox, are by no means calculated to inspire a hope, that the measures of that government will deviate very materially, from their ancient course. Lord Howick, who succeeds Mr. Fox in the department of foreign affairs, is an eminent and able member of the whig party; but the elevation of Mr. Thomas Grenville to the station of first Lord of the admiralty and of Mr. Bragge Bathurst to that of master of the Mint, will as we believe, give the Grenville party, a decided majority in the cabinet.

FOR THE VIRGINIA ARGUS.

SOME writers have thought fit to make remarks concerning the etymology of the name of the Emperor of France. They say that Napoleon is synonymous with Appollyon, the definition of which is, the destroyer. As a counterpoise of these notions, the following sentences are submitted to notice.

Many commentators on the prophecies and revelations say, that the facts which are connected with the word or name Appollyon, have long since happened, so that all those, if the former commentators were correct, who now apply Appollyon to Napoleon, must be in an error.

But let it be admitted that the last critics are right—that Appollyon and Napoleon are synonymous; that the Emperor Napoleon is the person alluded to, and that he is entitled, by his deeds, to the appellation of destroyer, why did these critics and expounders stop at this word, why have they not said something concerning the name "Bonaparte?" As they have failed therein, the writer of this will say a few words, which at least, will deserve as much notice, as those which are now under consideration.

The Cognomen, Bonaparte, or according to Italian spelling, Buonaparte, is compounded of two latin words. Bona from "Bonus" signifying "good," and parte from "Partis" signifying "part" therefore the name "Bonaparte," in English, is good part, or following the English idiom, "goodside," or "good-purpose." Bonaparte being in the ablative case, we may, in pursuance of the idea afforded by those who say, that the word Napoleon means a destroyer, complete the sense which the name alone affords; the result will be this: Napoleon Bonaparte, destroys for good purposes, and makes those changes and innovations which are useful to mankind, or to render the definition of the name, (according to these explanations,) suitable to English idiom, Napoleon Bonaparte means a good and beneficial destroyer, or innovator; or in other words, the friend or benefactor of mankind.

This explanation appears to correspond with the opinions of some writers, who appear to think more favorably of the conduct and projects of the Emperor Napoleon. The design of writing these sentences is rather to amuse and entertain than to edify the reader: The writer neither pretends to understand the prophecies or revelations, nor does he place any confidence in the etymology of names or words.

Y-Z.

[For the information of those, whose interests may be the most immediately concerned, we republish in this day's Argus, the prohibitory law which took effect on the 15th inst.]

NON-IMPORTATION ACT.

AN ACT

To prohibit the importation of certain goods and merchandise.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the fifteenth of November next, it shall not be lawful to import into the United States, or the territories thereof, from any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, any goods, wares or merchandise; of the following description, that is to say:

All articles of which leather is the material of chief value.

All articles of which silk is the material of chief value.

All articles of which hemp or flax is the material of chief value.

All articles of which tin or brass is the material of chief value, tin in sheets excepted.

Woolen cloths whose invoice prices shall exceed five shillings sterling per square yard:

Window glass, and all other manufactures of glass:
Silver and plated wares:
Paper of every description:
Nails and spikes:
Hats; and cloaks ready made:
Millinery of all kinds, and pictures and prints.

Nor shall it be lawful to import into the United States or the territories thereof, from any foreign port or place whatever, any of the above mentioned goods, wares or merchandise, being the growth, produce or manufacture of Great Britain or Ireland, or any of the colonies or dependencies of Great Britain: Provided, however that no articles which shall within fifteen months after the passing of this act be imported from any place beyond the Cape of Good Hope, on board any vessel cleared out before the passing of this act from any port within the United States or the territories thereof, for the said Cape of Good Hope, or any place beyond the same, shall be subject to the prohibition aforesaid.

SEC. 2. And be it further enacted, That whenever any article or articles the im-

portation of which is prohibited by this act shall after the said fifteenth day of November next, be imported into the United States or the territories thereof, contrary to the true intent and meaning of this act, or shall, after the said fifteenth day of November next be put on board any ship or vessel, boat, raft, or carriage, with intention of importing the same into the United States or the territories thereof; all such articles, as well as other articles on board the same ship or vessel, boat, craft or carriage, belonging to the owner of such prohibited articles, shall be forfeited, and the owner thereof shall moreover forfeit and pay treble the value of such articles.

SEC. 3. And be it further enacted, That if any article or articles, the importation of which is prohibited by this act, shall after the said fifteenth day of November next be put on board any ship or vessel, boat, raft or carriage, with intention to import the same into the United States, or the territories thereof, contrary to the true intent and meaning of this act, and with the knowledge of the owner or master of such ship or vessel, boat, raft or carriage, such ship or vessel, boat, raft or carriage shall be forfeited, and the owner thereof shall moreover forfeit and pay treble the value of such articles.

SEC. 4. And be it further enacted, That if any article or articles, the importation of which is prohibited by this act, and which shall nevertheless be on board any ship or vessel, boat, raft or carriage, arriving after the said fifteenth day of November next, in the United States, or the territories thereof, shall be omitted in the manifest, report or entry of the master or the person having the charge or command of such ship or vessel, boat, raft, or carriage, or shall be omitted in the entry of the goods owned by the owner or consigned to the consignee of such articles, or shall be imported or landed, without a permit, the same penalties, fines, and forfeitures shall be incurred and may be recovered, as in the case of similar omission or omissions, landing, importations or attempting to land or import in relation to articles liable to duties on their importation into the United States.

SEC. 5. And be it further enacted, That every collector, naval officer, surveyor, or other officer of the customs, shall have the like power and authority to seize goods, wares and merchandise, imported contrary to the intent and meaning of this act, to keep the same in custody until it shall have been ascertained whether the same have been forfeited or not, and to enter any ship or vessel, dwelling house, store, building or other place, for the purpose of searching for and seizing any such goods, wares and merchandise, which he or they now have by law in relation to goods, wares, and merchandise subject to duty; and if any person or persons shall conceal or buy any goods, wares and merchandise, knowing them to be liable to seizure by this act, such person or persons shall, on conviction thereof, forfeit and pay a sum, double the amount of value of the goods, wares and merchandise so concealed or purchased.

SEC. 6. And be it further enacted, That the following addition shall be inserted to the oath or affirmation taken by the masters or persons having the charge or command of any ship or vessel arriving at any port of the United States or the territories thereof, after the said fifteenth day of November next, viz "I further swear (or affirm) that there is not to the best of my knowledge or belief on board [insert the denomination and name of the vessel] any goods, wares and merchandise, the importation of which into the United States, or the territories thereof, is prohibited by law: and I do further swear (or affirm) that if I shall hereafter discover or know of any such goods, wares and merchandise on board the said vessel, or which shall have been imported in the same, I will immediately and without delay make due report thereof to the collector of the port of this district."

SEC. 7. And be it further enacted, That the following addition be inserted after the said fifteenth day of November next, to the oath or affirmation taken by importers, consignees or agents at the time of entering goods imported into the United States or the territories thereof, viz. "I also swear (or affirm) that there are not to the best of my knowledge and belief amongst the said goods, wares and merchandise, imported or consigned as aforesaid any goods, wares or merchandise, the importation of which into the United States, or the territories thereof is prohibited by law: And I do further swear (or affirm) that if I shall hereafter discover any such goods, wares or merchandise, among the said goods, wares & merchandise, I will immediately & without delay report the same to the collector of this district."

SEC. 8. And be it further enacted, That all penalties and forfeitures arising under this act may be sued for and recovered, and shall be distributed and accounted for in the manner prescribed by the act, entitled "an act to regulate the collection of duties on imports and tonnage;" and such penalties and forfeitures may be examined, mitigated or remitted in like manner, and under the like conditions, regulations and restrictions as are prescribed, authorized and directed by the act, entitled "an act to provide for mitigating or remitting the forfeitures, penalties and disabilities occurring in certain cases therein mentioned."

NATHL. MACON,
Speaker of the House of Representatives.
S. SMITH,
President of the Senate pro-tempore.
Approved, April 18th, 1806.
TH: JEFFERSON.

While the English have been alarmed by the consequences of the African slave trade, the whole world discovers in the comparative progress of American settlements, the ill policy of a Colony in which the slaves are the greater number in the population, the English have not been without expedients to correct or remove the evils which arise from the slave trade. Capt. Beaver, who conducted the intended settlement upon the island Bulama, on the western coast of Africa, and who received from the Lord Mayor of London, in 1794, as the Chairman of the Bulama association, a gold medal as a testimony to his firmness and enterprise,

has lately given to the public an account of this adventure.—From his account it appears, that nine thousand pounds sterling were collected by the association, and 275 persons were embarked, of whom 122 were women and children. The grants were made to such settlers as should continue for two years. In May, 1792, they reached the island, but in their defenceless state, many of them fell into the hands of the natives.—In July the greater part returned, but Capt. Beaver remained, with a company of 90 persons, at Bulama. In November, his number was reduced to 28, and of these, others returned, so that in November 1793, he was left with only one companion, and then he quitted the island.

Among the causes of this ill success, it was not among the least, that the company was not chosen from families that could endure the dangers and hardships of a new settlement, but from such persons as were soon discouraged, and inadequate to all exertions which belong to industry and perseverance.—Salem Reg.

Court of Session Scotland.—BLACK v the owner of a coal pit.—Black returned home on horse back, in a dark night, by a road leading through the defendant's estate, fell into a coal pit, and was drowned. The pit for many years had been abandoned and the mouth had been surrounded by a wall of stone and lime, which, at the time of the accident, was about 18 inches high; it lay about 4 feet from the road, which had been a road used by the proprietor when the coal was formerly wrought, but which, was also frequently used by the neighborhood.—The action was brought by the children of the deceased for reparation of the loss sustained by the death of their father. The lords found the defendant liable in damages 800.. and expenses 100l.

Died, at the Hotwells, Bristol, on the 8th of September, PATRICK O'BRIEN, the Irish giant. This extraordinary man, whose height exceeded eight feet, was born at Kinsale, in Ireland, and had long been the wonder of the age. A gentleman who had the curiosity to attend, with many others, to see the stupendous coffin, prepared for this remarkable personage, by Mr. Panting, undertaker, of Bristol, informs, that its length was nine feet five inches; and that five men got into it with ease, and had the lid placed upon it. The brass-plate contained the following inscription:—"Patrick Cotter O'Brien, of Kinsale, Ireland, whose stature was eight feet one inch—died Sept. 8, 1806, aged 46 years.—London Paper.

MARRIED.—On Sunday evening, the 16th Inst. MR. WILLIAM BEASLEY, to the amiable and accomplished Miss PATSEY M CHAU, both of Amelia county.

LONDON, September 24.

The Gazette contains his majesty's order in council for permitting the importation in neutral vessels into our West India Islands for 12 months ensuing, of lumber, and all kinds of provisions, with the exception of rum, molasses, and all other commodities, except sugar, indigo, cotton, and cocoa.

This is the first exercise of the authority, vested in the privy council by the act of last session, which was productive of such warm and lengthened debates in both houses. Since the passing of the bill, the board of trade has been almost daily occupied in ascertaining the practicability of supplying the colonies wholly from the mother country. The order of council, is we think, decisive of the negative.

September 25.

We understand that the following are the new arrangements which are agreed upon in consequence of the lamented death of Mr Fox:

Earl Fitzwilliam, from indisposition, wishes to retire from the situation (which requires regular attention) of Lord President, but to retain his seat in the Cabinet. Lord Sidmouth, to be Lord President. Lord Holland, to be Lord Privy Seal. Lord Howick, to be Secretary of State for the Foreign Department. Mr. Thomas Grenville, to be first Lord of the Admiralty. Mr. Tierney, to be President of the Board of Trade.

Mr. Bragge Bathurst, to be master of the Mint, vice Lord Charles Spencer. Mr. Whitbread, will be speedily called into office, but the arrangement for that purpose is not yet matured.

We can now add, with the utmost confidence, that Lord Grenville proceeded on Monday morning to Windsor, to take the King's pleasure upon the above nominations, all of which it is presumed will be confirmed at the Privy Council held this day.

The Expeditions.—One of the Expeditions now fitting out is for the Spanish Maine. We understand that the 36th, the 87th, and 89th, regiments, are to go on this service.

September 26.

Captain Whitby of the Leander, has returned from the American station, under arrest, in that ship; a court martial is immediately ordered upon him, for firing upon the American vessel, which made so much noise. By these means, the truth of those proceedings, which have given so much uneasiness to both countries will be indubitably determined.

SALES at AUCTION.

ON Friday the 5th of December, will be sold at auction, at the office of the subscribers WITHOUT RESERVE,

Sixteen Bales of Goods,

LATELY IMPORTED, CONSISTING OF

7-4 and 6-4 Superfine Cloths,
Forest Cloths,
Casimeres,
Coatings,
Nap't Frize,
White & Colored Plains,
Bennett's Cord & Swandowns,
Rose & Dufile Blankets.

Terms. Six and nine months credit on all sums above one hundred dollars, the purchasers giving approved endorsed negotiable notes.

TAYLOR & BROWN, v. s's.
Nov. 26th, 1806.